

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15710
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On May 9, 2001, the Income Tax Audit Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) asserting Idaho income taxes, penalty and interest in the amount of \$17,417 for the 1997 through 1999 taxable years. A timely appeal and petition for redetermination was filed by the taxpayers. An informal conference was held on September 24, 2001. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers own and operate a daycare business out of their home in [Redacted], Idaho. The daycare is operated as a sole proprietorship. During the years at issue in this administrative appeal Mr. [Redacted] also worked as a teacher in [Redacted], California. Mr. [Redacted] traveled back and forth extensively between his home in [Redacted] and his place of employment in [Redacted], California.

Based on some questionable deductions taken by the taxpayers that were uncovered in a prior audit, the taxpayers 1997 through 1999 Idaho individual income tax returns were selected for audit. The audit of the 1997 through 1999 taxable years consisted of reviewing the taxpayer's Idaho and federal income tax returns, the daycare records, and the taxpayers' bank records. After concluding his review of the taxpayers' tax records, the Tax Commission's auditor made a number of adjustments to the taxpayers' returns. These adjustments can be broken out into the following fourteen (14) separate categories:

1. Unreported interest income of \$75 was added to the taxpayers' 1999 Idaho return.
2. The 1997, 1998 and 1999 daycare Schedule C was thoroughly audited. This resulted in an increase in the reported gross receipts, and the disallowance of a number of the claimed expenses. The net result was to increase the net income of the Schedule C business by \$37,955 for 1997, \$45,866 in 1998, and \$33,993 in 1999.
3. The taxpayers claimed a \$5,000 federal Medical Savings Account deduction on their 1998 federal return. They were unable to verify that they actually made a contribution to a federal MSA account or that they otherwise qualify for the deduction. Therefore, the deduction was disallowed.
4. The taxpayers claimed a \$1,100 Keogh, SEP/SIMPLE plan deduction on their 1998 federal return. They were unable to verify that they made a qualifying contribution into one of these plans, or that they otherwise qualify for the deduction. Therefore, the deduction was disallowed.
5. The taxpayers claimed a \$672 Self-Employed Health Insurance deduction on their 1999 federal return. The auditor reduced the claimed deduction to \$605 (60% of the Blue Cross Premiums that were substantiated for 1999). Thus, the claimed Self-Employed Health Insurance deduction was reduced by \$67.
6. The taxpayers included a \$669 state income tax refund on their 1997 federal return. They neglected to subtract that state income tax refund when computing their Idaho taxable income. The auditor allowed the subtraction.
7. The taxpayers claimed a \$2,000 Idaho Medical Savings Account deduction on their 1997 and 1998 Idaho returns. They were unable to verify that they made a qualifying Idaho Medical Savings Account contribution in either of those years. As a result, the claimed deductions were disallowed.
8. A number of adjustments were made to the taxpayers' 1997, 1998 and 1999 Schedule A Itemized Deductions. The result of these various adjustments reduced the total itemized deductions below the standard deduction amount. As a result, the auditor allowed only the standard deduction amounts for 1997, 1998 and 1999. The reduction of the claimed itemized deductions down to the standard deduction amounts resulted in a reduction of the allowable itemized/standard deduction of \$18,868 in 1997, \$2,221 in 1998, and \$18,780 in 1999.
9. The auditor allowed an Idaho Investment Tax Credit of \$10 for 1997 and \$13 for 1998.
10. The taxpayers claimed a credit on their 1997 through 1999 Idaho income tax returns for contributions made to an Idaho education institution. They claimed a

credit of \$150 for 1997, \$100 for 1998, and \$100 for 1999. They were only able to verify a qualifying contribution of \$75 in 1997. The remainder of the claimed credit for 1997, and all of the claimed credit for 1998 and 1999, was disallowed.

11. The taxpayers claimed a \$110 credit on their 1997 Idaho income tax return for a contribution made to a youth or rehabilitation facility. They were unable to verify that any such qualifying contribution was made. As a result, the auditor disallowed the claimed credit.
12. The taxpayers claimed a \$97 Promoter-Sponsored Event credit on their 1999 Idaho income tax return. They were unable to verify that they qualified for that credit. Therefore, the claimed credit was disallowed.
13. In reviewing the taxpayers records relating to the daycare business, the auditor discovered several mail order and out-of-state purchases where no state sales tax was paid. Idaho use tax has been asserted on these purchases. The total use tax asserted in the audit was \$80 for 1997, \$152 for 1998, and \$46 for 1999.
14. The 5% negligence penalty was asserted on the additional tax (income and use tax) due for 1997, 1998 and 1999.

At the September 24, 2001, informal conference, Mr. [Redacted] informed the representative from the Idaho State Tax Commission that he and his wife were only contesting the audit adjustments related to the Schedule C business, the Schedule A itemized deductions, and the 5% negligence penalty. As a result, the Tax Commission hereby affirms the other audit adjustments listed above that the taxpayers are not contesting.

1. SCHEDULE C BUSINESS:

Income and expenses of the taxpayers' daycare business were reported on the federal Schedule C [Profit or Loss From Business] attached to the 1997 through 1999 federal individual income tax returns. The Tax Commission's auditor carefully scrutinized all of the amounts listed on those schedules. From this review it was determined that the taxpayers had underreported their gross receipts in each year under review, and had overstated the allowable deductions in each of these years. Below is a table setting out the amount of these audit adjustments:

Year	Additional Gross Receipts	Disallowed Expenses	Total Adjustment To Schedule C
1997	\$11,271	\$26,684	\$37,955
1998	\$15,519	\$30,347	\$45,866
1999	\$10,250	\$23,743	\$33,993

a. Additional Gross Receipts:

The additional gross receipt figures were determined from a review of the daycare receipt books maintained by the business, as well as bank deposit slips and bank statements identifying amounts deposited into the taxpayers' checking account. Based on this review, it appears that the taxpayers consistently underreport the amount of daycare payments received by the business during each year under review. Below is a breakdown of the underreported daycare receipts.

Year	Gross Receipts Per Audit	Gross Receipts Reported	Amount Underreported	Percentage Underreported
1997	\$96,108	\$84,837	\$11,271	11.73%
1998	\$90,071	\$74,552	\$15,519	17.23%
1999	\$80,302	\$70,052	\$10,250	12.76%

The taxpayers have provided no explanation regarding the relatively large discrepancy in the amount of daycare gross receipts reported on their federal Schedule C and the amount of daycare gross receipts identified in their business records. From the information currently before the Tax Commission, it appears that the taxpayers were systematically underreporting the amounts received from their customers for daycare services. For example, for the 1997 taxable year the taxpayers provided the Tax Commission's auditor with a worksheet listing the amount of daycare "tuition" charged to each of its customers for each month. The worksheet listed only

tuition and did not include the annual \$48 registration fee, late payment charges, or other miscellaneous amounts charged by the daycare to its customers. In any event, the total amount of tuition reported on the worksheet for 1997 was \$90,800.24. However, the taxpayers somehow ended up reporting only \$84,837.00 as gross receipts on their 1997 federal Schedule C. The taxpayers have not provided any explanation for the almost \$6,000 discrepancy between what they list on their own worksheet and the amount of gross receipts actually reported on the 1997 Schedule C.

The auditor's determination of the actual gross receipts received by the daycare business during 1997 through 1999 appears to be reasonable. The receipt books that the auditor relied upon provide a consecutively numbered carbon copy of the receipts provided by the daycare to its customers to identify payments received. Each of these consecutively numbered receipts is signed by either Mr. [Redacted] or by Mrs. [Redacted]. In addition, each receipt identifies the total amount paid by the customer, including amounts paid for registration and other miscellaneous fees, and indicates whether the payment was made by check or in cash. To the extent possible, these receipts were then matched up to the various deposits identified on the bank deposit records provided by the taxpayers. Thus far the taxpayers have provided nothing to explain why the amounts reported in the daycare receipt books, and relied upon by the Tax Commission's auditor, are incorrect or otherwise overstate the amount of gross income received during the years under review. As a result the Tax Commission hereby affirms these adjustments.

b. Disallowed Deductions:

The Tax Commission's auditor made a number of adjustments to the business deductions reported on the 1997 through 1999 federal Schedules C. The audit of the Schedule C daycare

business consisted of a detailed review of several boxes of receipts and other source documents that the taxpayer provided to substantiate the amounts listed on the Schedules C. Other than these boxes of receipts and other source documents, the taxpayers did not maintain any traditional accounting records. They maintained no cash receipt and disbursement journal, no general journal, or any other accounting journals or ledgers designed to capture and categorize the various business expenditures incurred during the year. Instead, they simply retained various receipts, credit card charge slips, carbon copies of checks, and other source documents. These receipts and source documents were collected together in various expense groupings such as “business oriented travel,” “truck use,” “utilities and other deductions,” and “business maintenance.” These expense groupings were usually stapled together, bound by rubber bands, or placed into envelopes. Presumably the taxpayers went through these receipts at the end of the year and added them up to determine the amounts listed on the various lines of the Schedules C. However, in all but one or two cases, the amount arrived at after adding up all the receipts and other documents contained in an expense grouping do not equal the amount listed as a deductible expense on the Schedules C. For example, the packet of receipts identified as “office expenses” found in the 1997 box of records totaled to \$1,708.10. But the amount listed on the 1997 Schedule C office expense was \$1,450. Because the taxpayers maintain no accounting journals or ledgers, it is impossible to tell exactly what expenditures the taxpayers included as “office expense” on their 1997 Schedule C.

This lack of any rudimentary accounting records created a dilemma with respect to the audit of the taxpayers’ Schedule C business. Because it was virtually impossible to tell exactly how most of the amounts listed on the Schedules C were arrived at, it was difficult if not impossible to tell how much (if any) of the amounts listed on the Schedules C were, in fact,

deductible expenses of the business. In an effort to give the taxpayers the benefit of any clearly deductible expenditures, the Tax Commission's auditor carefully reviewed every receipt and other source document provided by the taxpayers and created a schedule identifying, to the extent possible, the amount listed on the receipt/document, the date listed on the receipt/document, and the description of the expenditure. The auditor then added a column to his worksheet where he listed the amount (if any) allowed as an ordinary and necessary business expense, a column that indicated what sort of source document the taxpayers had provided, and a column that referred to the reason for disallowing part or all of the amount identified. See Audit Report, Schedule B1 – B69. From this summary of the various receipts and other source documents provided during the audit, the auditor was able to adjust the amounts listed as expenses on the 1997 through 1999 Schedules C to reflect only those expenditures that were clearly deductible. Below is a brief discussion of each of the adjustments made to the 1997 Schedule C:

- Line 2: Returns & Allowances. The taxpayers claimed a deduction of \$2,254 as returns and allowances on line 2 of the 1997 Schedule C. All but \$20 of this amount was disallowed due to the lack of any records indicating that any such amounts were actually paid during 1997.
- Line 4: Cost of Goods Sold. The taxpayers claimed a deduction of \$480 as cost of goods sold on line 4 of the 1997 Schedule C. On Part III, line 39 of the Schedule C they indicate that this \$480 expense was for "Other costs. Records/Registration @ 40 p/mo." This entire amount was disallowed due to the lack of any records indicating that such amounts were actually paid. However, in reviewing the receipts and other records provided by the taxpayers, the auditor determined that they were entitled to a deduction on line 4 of \$8 relating to bank fees paid in September and November, 1997.
- Line 8: Advertising. The taxpayers took a deduction of \$1,259 for advertising expenses on the 1997 Schedule C. In reviewing the business records provided by the taxpayers the auditor was able to identify \$554 that was paid for yellow pages advertising, \$458 that was paid for painting of a sign with the daycare logo, and \$123 paid for promotional pens. These amounts were allowed as advertising expenses. The remaining \$124 claimed on line 8 was disallowed as unverifiable or nondeductible personal expenditures.

- Line 9: Bad Debts from Sales or Services. The taxpayers claimed a deduction of \$64 for bad debts on line 9 of their 1997 Schedule C. This deduction was disallowed due to the lack of records verifying that any such bad debt was actually written off in 1997.
- Line 10: Car and Truck Expenses. The taxpayers took a deduction of \$809 for actual car and truck expenses incurred during 1997. The auditor disallowed this deduction due to the lack of adequate substantiation and, instead, calculated the allowable car and truck expenses based on the standard mileage rate of \$0.315/mile times the number of business miles driven during the year. On Part IV, line 44a of the Schedule C the taxpayers reported 1,920 miles driven for business purposes during 1997. At \$0.315/mile, the auditor allowed a deduction for car and truck expenses of \$605.
- Line 12: Depletion. The taxpayers claimed a deduction of \$170 for depletion on line 12 of the Schedule C. While not entirely clear, it appears that this deduction was equal to 0.2% of the gross receipts reported on line 1 of the Schedule C. In any event, the entire amount was disallowed due to the lack of any records substantiating that the taxpayers were entitled to any depletion expense.
- Line 13: Depreciation and Section 179 Expense Deduction. On line 13 of the 1997 Schedule C the taxpayers claimed depreciation expenses of \$5,786. This amount was arrived at by multiplying the cost basis of their Pocatello home (\$115,721) by the percentage of that home that was used in the daycare business (50%), and then depreciating that amount over a ten-year period under the straight line depreciation method. The auditor disallowed this claimed deduction and recalculated the amount of depreciation expense allowable for 1997. See Audit Report, Schedule B69. The recalculated amount (\$1,674) was then allowed as a deduction on Schedule C, line 30 [Expenses for Business Use of Your Home].
- Line 14: Employee Benefit Programs. The taxpayers claimed a deduction of \$90 on line 14 of the Schedule C. This amount was disallowed due to the lack of any records verifying that any amounts were paid in 1997 under a qualified employee benefit program.
- Line 15: Insurance. The taxpayers claimed a deduction of \$814 on line 15 of the Schedule C. After reviewing the receipts and other source documents provided at the audit, the auditor recalculated the allowable insurance expenses. According to the auditor's determination, the daycare business was entitled to a deduction of \$1,441 for insurance expenses.
- Line 16: Interest. The taxpayer claimed an interest expense deduction of \$185 on line 16a of the 1997 Schedule C. This amount was disallowed due to the lack of any records verifying that any such interest expense was actually paid.

- Line 17: Legal and Professional Services. The taxpayers claimed a deduction of \$1,270 on line 17 of the Schedule C. The auditor was able to identify only \$380 that was actually paid for accounting services during the year. The remaining amount claimed as a deduction was then disallowed due to the lack of any records verifying that these legal and professional services were actually paid during 1997.
- Line 18: Office Expense. The taxpayers claimed a deduction of \$1,450 on line 18 of the Schedule C. In reviewing the records provided by the taxpayers, the auditor was able to identify expenditures totally \$565 that appeared to qualify as office expenses of the daycare business. Most of the remaining expenditures claimed by the taxpayers as office expenses related to meals purchased at various fast-food restaurants. These amounts were disallowed as nondeductible personal expenditures.
- Line 20a: Rent or Lease of Vehicles, Machinery, and Equipment. The taxpayers claimed a deduction of \$80 on line 20a of the Schedule C relating to the rent or lease of vehicles or similar equipment. This deduction was disallowed do to the lack of any records verifying that any such rent or lease of equipment was actually paid during 1997.
- Line 20b: Rent or Lease of Other Business Property. The taxpayers claimed a deduction of \$1,000 on line 20b of the Schedule C relating to the rent paid by the taxpayers on Mr. [Redacted] California apartment. This amount was disallowed as a nondeductible personal expenditure.
- Line 21: Repairs and Maintenance. The taxpayers claimed a deduction of \$8,173 on line 21 of the Schedule C. In reviewing the records provided by the taxpayers, the auditor was able to identify expenditures totally \$937 that appeared to qualify as repair and maintenance expenses of the daycare business. The remaining amounts claimed on line 21 were disallowed because they did not appear to be related to the daycare business, or because they had already been allowed elsewhere on the Schedule C.
- Line 22: Supplies. The taxpayers claimed a deduction of \$6,500 on line 22 of the Schedule C. The auditor was able to identify expenditures totaling \$3,570 that appeared to qualify as supplies purchased for the daycare business. The remaining amounts claimed on line 22 were disallowed as nondeductible personal expenses, or because they did not appear to be related to the daycare business.
- Line 23: Taxes and Licenses. The taxpayers claimed a deduction of \$5,809 on line 23 of the Schedule C. The auditor was able to identify expenditures of \$2,521 that qualified as taxes and license fees of the daycare business. Much of the remaining amounts listed on line 23 related to the federal and state income taxes withheld from the employees' gross wages. Since these amounts were already deducted as part of the wage expenditures listed on line 26 of the Schedule C, no additional deduction was allowed on line 23.
- Line 24a: Travel. The taxpayers claimed a deduction of \$970 on line 24a of the Schedule C. This amount was disallowed as nondeductible personal expenses. In short,

the taxpayers were unable to verify that any of the travel expenditures incurred during 1997 were ordinary and necessary expenses of the daycare business.

- Line 24b: Meals and Entertainment. The taxpayers claimed meals and entertainment expenditures of \$197 on line 24b of the Schedule C. This amount was disallowed as nondeductible personal expenses.
- Line 25: Utilities. The taxpayers claimed a deduction of \$918 on line 25 of the Schedule C. The auditor allowed $\frac{1}{2}$ of the verified cable TV, gas, power, and sewer expenditures incurred during 1997. This amounted to \$1,125 in deductible utility expenses.
- Line 26: Wages. The taxpayers claimed a deduction of \$33,974 on line 26 of the Schedule C. Based on the records provided at the audit, the auditor recalculated the allowable wage deduction as \$34,785.
- Line 27 and Part V: Lunch Program. The taxpayers claimed a deduction of \$3,893 on Schedule C, Part V relating to the lunches served to the children at the daycare. This amount was then included in the amount listed at line 27 of the Schedule C. The auditor has allowed this claimed deduction in its entirety.
- Line 27 and Part V: Gem State Direct Use Supplies. The taxpayers claimed a deduction of \$475 on Schedule C, Part V related to paper towels, napkins, and similar products purchased from a local paper supply company. This amount was then included in the amount listed at line 27 of the Schedule C. The auditor has allowed this claimed deduction in its entirety.
- Line 27 and Part V: Neutron Chemical Products. The taxpayers claimed a deduction of \$623 on Schedule C, Part V relating cleaning services. This amount was then included in the amount listed at line 27 of the Schedule C. The auditor has allowed this claimed deduction in its entirety.
- Line 27 and Part V: Recorded Cash Buyouts/Services. The taxpayers claimed a deduction of \$1,460 on Schedule C, Part V that they referred to as “Recorded Cash Buyouts/Services. Although not entirely clear, it appears that this amount was related to expense reimbursements paid to the daycare employees, and nonemployee compensation paid for lawn care and other maintenance services. This amount was then included in the amount listed at line 27 of Schedule C. Upon review of the taxpayers’ business records the auditor was able to identify reimbursement payments made to the daycare employees, and nonemployee compensation paid for lawn care and similar services, totaling \$564 that had not previously been deducted. This amount was allowed as a deduction on line 27. The remainder of the “Recorded Cash Buyouts/Services” deduction claimed on Part V of the Schedule C was disallowed either because it was already allowed as a deduction elsewhere on the Schedule C, because it did not appear to relate to the daycare business, or due to the lack of records verifying that any such amounts were actually paid.

- Line 30: Expenses for Business Use of Your Home. The taxpayers took a deduction of \$6,233 on line 30 of the Schedule C. The auditor disallowed this deduction and then recalculated the allowable amount of expenses for business use of the taxpayers' Pocatello home. In this recalculation the auditor allowed ½ of the home mortgage interest, property taxes, and hazard insurance paid in 1997 relating to the taxpayers' Pocatello home/daycare. Depreciation on the Pocatello home/daycare was also recalculated under the method set out in Internal Revenue Code § 168 for nonresidential real property. As recalculated, the total amount allowed on line 30 of the 1997 Schedule C was \$5,488.

All totaled, the expenses listed on the taxpayers' 1997 Schedule C were reduced by \$26,684 (from \$84,837 to \$58,153). Similar adjustments were made to the taxpayers' 1998 and 1999 Schedule C. The expenses listed on the 1998 Schedule C were reduced by \$30,347 (from \$88,981 to \$58,634). The expenses listed on the 1999 Schedule C were reduced by \$23,743 (from \$70,052 to \$46,309).

In their letter of protest and subsequent correspondence, the taxpayers argue that the audit adjustments described above are arbitrary and not supported by the legal authorities cited by the Tax Commission's auditor. The taxpayers go on to suggest that the Tax Commission and its auditor are biased against them. While the taxpayers concede that they may have made a mistake or two on their federal and Idaho income tax returns, they claim that the vast majority of the expenses claimed on the Schedules C are deductible and should be allowed. Unfortunately for the taxpayers, the facts simply do not support their contention that the adjustments made to the Schedule C expenses are arbitrary and not supported by any relevant legal authority.

Generally speaking, ordinary and necessary expenses actually incurred in connection with a trade or business are deductible under Internal Revenue Code § 162. Personal expenses are not deductible. I.R.C. § 262. Likewise, capital expenditures are not deductible except to the extent allowed by Internal Revenue Code §§ 263, 167, or 179. An expense is "ordinary" if it is customary or usual within the experience of a particular trade, business, or industry. Welch v.

Helvering, 290 U.S. 111, 54 S.Ct. 8 (1933). An expense is “necessary” if it is reasonable in amount and helpful with respect to developing and maintaining the taxpayer’s trade or business. Id. When the Internal Revenue Service or a state taxing authority challenges a claimed business expense, the burden of proof is on the taxpayer to show that he is entitled to the deduction. New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S.Ct. 788, 790 (1934). In most circumstances the taxpayer is required to establish by a preponderance of the evidence that the expense was actually paid or incurred during the taxable year, the amount of the expense, and that it was an ordinary and necessary expense of the taxpayer’s trade or business. This proof is generally met through the taxpayer’s books and records. However, where the taxpayer’s books and records are inadequate to substantiate the deductibility of the expenditure, other credible evidence may be accepted and, in certain cases, reasonable estimates may be used. Cohan v. Commissioner, 39 F.2d 540 (2nd Cir. 1930). Additional record keeping and substantiation requirements apply to expenses relating to (1) travel and entertainment, (2) gifts, and (3) automobiles and other “listed property.” See I.R.C. § 274(d); Treas. Reg. § 1.274-5T.

In the present case the taxpayers has been unable to substantiate a large number of expenses claimed on the Schedules C filed for 1997 through 1999. With respect to an alarming number of these claimed expenses the taxpayers could not even establish that the expenditure was ever actually incurred. Examples found on the 1997 Schedule C include the amounts deducted as “returns and allowances,” “costs of goods sold,” “bad debts,” “depletion,” “employee benefit programs,” and “interest.” In other cases the taxpayers were unable to establish that the claimed expenditure was related to the Schedule C daycare business. Examples found on the 1997 Schedule C include the amounts deducted as “travel, meals, and entertainment,” and “rent or lease of other business property.” Apparently the taxpayers

considered the rent of an apartment in [Redacted], California, and trips to [Redacted], Missouri and Washington State, to be ordinary and necessary expenses of their [Redacted] daycare business. Other examples of expenses that appear to be unrelated to the daycare business are found throughout the expenditures deducted as “office expenses,” “repairs and maintenance,” “supplies,” and “legal and professional fees.” While these amounts were actually incurred, they appeared to be personal expenses of Mr. and Mrs. [Redacted] rather than business expenses of the daycare.

Finally, there were several deductions that were disallowed because there was no legal basis for the deduction or because it was obviously improperly calculated. Examples included on the 1997 Schedule C include the depreciation expense that the taxpayers calculated on their [Redacted] home/daycare under a 10 year straight line method, and the deduction taken on line 30 of the Schedule C for “business use of your home.” These deductions were recalculated to properly reflect the amounts allowed as ordinary and necessary business expenses of the daycare business.

Aside from their generalized assertion that the Tax Commission and its auditor are biased against them, the taxpayers have been unable or unwilling to provide any additional explanation or substantiation to support any of the disallowed Schedule C expenses. Instead, the taxpayers contend that a more thorough (less biased) review of the receipts and other source documents they provided to the Tax Commission’s auditor will prove that virtually all of the disallowed expenditures are, in fact, deductible. In support of this argument the taxpayers have resubmitted the receipts and source documents they provided at the audit. The Commission has reviewed these boxes of materials and is unable to find anything to support the taxpayers’ claim that the

audit was biased or otherwise flawed. As a result, the Tax Commission hereby affirms the adjustments made to the 1997 through 1999 Schedule C expenses.

2. SCHEDULE A ITEMIZED DEDUCTIONS:

The second issue raised by the taxpayers in this administrative protest relates to the disallowed itemized deductions. The Tax Commission's auditor carefully reviewed all the itemized deductions claimed on the taxpayers' 1997 through 1999 federal Schedules A. Many of the itemized deductions were disallowed or recalculated. In each year the amount of itemized deductions allowable per the audit was less than the standard deduction amount allowed under Internal Revenue Code § 63(b). As a result, the standard deduction amount was allowed in computing the additional Idaho income tax owed during each of the years under audit. Below is a table setting out the amount of the audit adjustment resulting from the auditor's review of the itemized deductions:

Year	Itemized Deductions Claimed	Itemized Deductions Allowed	Standard Deduction	Audit Adjustment
1997	\$25,768	\$5,330	\$6,900	\$18,868
1998	\$9,321	\$4,416	\$7,100	\$2,221
1999	\$26,130	\$3,959	\$7,350	\$18,780

In their letter of protest the taxpayers did not identify any specific audit adjustments that they disagreed with. Instead, they relied on a generalized assertion that the Tax Commission's auditor was biased against them and that he disallowed clearly appropriate itemized deductions. The Tax Commission, having reviewed the entire file, must disagree with the taxpayers' claim. All of the audit adjustments made to the taxpayers' 1997 through 1999 itemized deductions

appear to be appropriate and supported by the evidence. In addition, there is no evidence to support the taxpayers' claim of bias.

On October 17, 2001, the Deputy Attorney General representing the Tax Commission in this administrative protest sent the taxpayers a detailed explanation of every adjustment made to the taxpayers' 1997 through 1999 itemized deductions. On November 9, 2001, the taxpayers submitted a letter in response to the Deputy Attorney General's letter. In their November 9 letter the taxpayers take issue with several of the audit adjustments made to their itemized deductions. The Tax Commission will address each of the arguments contained in that November 9, 2001, letter in turn.

a. 1997 Schedule A, Line 7: Personal Property Taxes.

The taxpayers claimed a deduction of \$2,002 on line 7 of their 1997 Schedule A. This amount was equal to the amount of real estate taxes paid by the taxpayers on their [Redacted], Idaho, home. During the audit it was determined that one half (1/2) of that home was used for the taxpayers' daycare business. As a result, the Tax Commission's auditor allowed one half of the 1997 real estate taxes as a business expense of the daycare on the Schedule C, and allowed the other half as an itemized deduction. In response to the explanation of this audit adjustment, the taxpayers indicated that "[n]o figures shown on 'A' were shown on 'C,' not considering a mistake or two." It appears that the taxpayers are simply misunderstanding the adjustment made by the Tax Commission's auditor. The record clearly reflects that the auditor applied one half of the \$2,002 real estate taxes as an allowable deduction on the Schedule C, and applied the other half as an allowable deduction on the Schedule A. See Audit Report, Schedule B22 and Schedule C1. Since it is reasonable to conclude that one half of the taxpayers' Pocatello home was used in their daycare business, this appears to be an appropriate adjustment.

b. 1997 Schedule A, Line 10: Home Mortgage Interest Reported on Form 1098.

The taxpayers claimed a deduction of \$4,717 on line 10 of their 1997 Schedule A. This deduction was equal to the amount of mortgage interest they paid to [Redacted] on the loan secured by their [Redacted] home. Since it was determined that one half of that home was used in the taxpayers' daycare business, the auditor applied one half of the \$4,717 interest expense as a business deduction on the Schedule C, and the other half as an itemized deduction on the Schedule C. In response to the explanation of this audit adjustment, the taxpayers indicated that "[n]o figures shown on 'A' were shown on 'C,' not considering a mistake or two." Again, the taxpayers appear to misunderstand the audit adjustment made to line 10 of their 1997 Schedule A. The record clearly shows that the auditor applied one half of this interest expense on the Schedule C and the other half on the Schedule A. See Audit Report, Schedule B22 and Schedule C1. This is an appropriate audit adjustment and will not be modified in this administrative appeal.

c. 1997 Schedule A, Line 11: Home Mortgage Interest not Reported on Form 1098.

On line 11 of their 1997 Schedule A the taxpayers claimed a deduction of \$1,096 relating to interest paid on a home equity loan with [Redacted], and a loan with [Redacted] relating to real property located in [Redacted]. The auditor allowed a deduction on Schedule C of one half of the interest paid on the home equity loan. The other half of the interest paid on the home equity loan, as well as all of the interest paid on the [Redacted] loan, was allowed as an itemized deduction. Again, this appears to be an appropriate adjustment. The taxpayers' claim in their November 9, 2001, letter that "[n]o figures shown on 'A' were shown on 'C,' not considering a

mistake or two” simply does not provide a sufficient legal or factual basis for overturning this adjustment.

d. 1997 Schedule A, Line 8: Other Taxes.

During 1997 the taxpayers paid hazard insurance premiums totaling \$369. One half of this amount (\$185) was claimed on line 8 of the 1997 Schedule A. This claimed deduction was disallowed. In their November 9, 2001, letter the taxpayers assert that “[h]azard coverage includes a 2000 sq. ft. outside play area, office space upstairs, double-wide parking area 80’ in length – every area used for business *except* four personal rooms upstairs, two rooms and two bathrooms.” It is not entirely clear what the taxpayers are arguing here. Apparently they are not contesting the disallowance of this deduction as a Schedule A itemized deduction, but are arguing that it should be allowed as a deduction on the Schedule C.

As indicated above, the taxpayers paid \$369 of hazard insurance premiums in 1997. One half of this amount was allowed as a deduction on the taxpayers’ Schedule C. See Audit Report, Schedule B22. The other half was disallowed as a personal expense. This 50-50 split of the hazard insurance payment was the result of the auditor’s determination that one half of the taxpayers’ [Redacted] home was used for the daycare business. This determination was, in turn, based on the information provided by the taxpayers on the federal form 8829 [Expenses for Business Use of Your Home] filed with their 1997, 1998, and 1999 federal income tax returns. On the 1997 form 8829 the taxpayers claimed that 21% of their [Redacted] home was used in the daycare business. On the 1998 and 1999 forms the taxpayers claimed that 50% of their [Redacted] home was used in the daycare business. The auditor found that in all three years 50% of the home was used in the daycare business. Because of this determination, 50% of the hazard insurance paid in 1997 was allowed as a deductible business expense on the Schedule C. The

remainder of the hazard insurance expense is not related to the daycare business and, therefore, is not deductible on the Schedule C. In addition, there is no other provision within Chapter 1 of the Internal Revenue Code that allows for the deduction of these insurance premiums. Therefore, the Tax Commission's auditor was entirely correct in disallowing that portion of the hazard insurance premiums claimed as a deduction on line 8 of the 1997 Schedule A.

e. 1997 Schedule A, Line 15: Gifts to Charity by Cash or Check.

The taxpayers claimed a deduction of \$1,519 on their 1997 Schedule A for charitable deductions paid by cash or check. The auditor disallowed all but \$215 of the claimed charitable deductions because of lack of substantiation. Most of the amounts listed as charitable deductions on the Schedule A appear to be related to entry fees and associated costs incurred by Mr. [Redacted] in attending numerous car shows throughout the year. For the most part it appears that these car shows were put on by charitable or tax-exempt organizations as fundraisers. For example, on November 23, 1997, Mr. [Redacted] attended a car show sponsored by the [Redacted]. The entry fee for this event was "one new unwrapped \$5.00 toy." According to the event flyer retained by the taxpayers, Mr. [Redacted] donated a \$9 toy, purchased \$20 in raffle tickets, paid \$10 for food, \$20 for gasoline, and \$10 for "miscellaneous." All totaled, Mr. [Redacted] claims to have spent \$69 at this event. He has, however, provided no receipts, cancelled checks or other proof of actual payment. In any event, it appears that the entire \$69 was claimed as a charitable deduction on the taxpayers' 1997 Schedule A.

In order for these amounts to be deductible as charitable contributions under Internal Revenue Code § 170 the taxpayers must show that the amount was actually paid, that it was intended as a charitable donation, and that the amount paid was in excess of the fair market value of the benefit received. See Rev. Rul. 67-246, 1967-2 CB 104. United States v. American Bar

Endowment, 477 U.S. 105, 116 – 117, 106 S.Ct. 2426, 2433 (1986). To the extent the amount actually paid in attending these fundraising events is in excess of the benefit received, the taxpayers are entitled to claim that excess as a charitable deduction. However, the burden is clearly on the taxpayers to make this showing before any amount paid with respect to any of these car shows can be deducted.

Thus far the taxpayers have been unable or unwilling to meet these requirements. All that the taxpayers have provided are copies of the event fliers with a hand-written notation of the amount spent. Except for some of the gasoline purchases (which do not appear to be deductible in any event – see I.R.C. § 170(j)), there are no receipts or cancelled checks to verify the claimed charitable deduction. In addition, there has been absolutely no showing that any of the amounts paid (assuming they were actually paid) were in excess of the fair market value of the benefit received. As a result, the taxpayers have not met their burden of establishing that they are entitled to a charitable deduction for any of the fundraising events included within line 15 of their 1997 Schedule A. See Treas. Reg. § 1.170A-13(a) (setting out the record keeping requirement necessary to substantiate a deduction for charitable contributions of money.) The auditor properly disallowed these claimed deductions for lack of adequate substantiation.

f. 1997 Schedule A, Line 16: Gifts to Charity by Other than Cash or Check.

The taxpayers claimed a deduction of \$219 on line 16 of their 1997 Schedule A relating to charitable contributions of property other than cash. It is not clear what property the taxpayers donated, who the property was donated to, or when these donations were made. The entire \$219 deduction has been disallowed for lack of adequate substantiation. See Treas. Reg. § 1.170A-13(b) (setting out the record keeping requirement necessary to substantiate a deduction for charitable contributions of property other than money.) In response to the disallowance of this

claimed deduction, the taxpayers state that “[a]ll charitable donations have receipts, dated notations and records.” Unfortunately for Mr. and Mrs. [Redacted], their claim to have receipts relating to these charitable donations does not appear to be true. In reviewing the taxpayers’ records, no receipts were located that related to the \$219 deduction claimed on line 16 of the 1997 Schedule A. As a result, they have failed to substantiate the deduction and it has, therefore, been properly disallowed.

g. 1997 Schedule A, Line 20: Unreimbursed Employee Expenses.

The taxpayers reported unreimbursed employee expenses of \$6,435 on line 20 of their 1997 Schedule A. For the most part these expenses all related to a portion of the rent paid for Mr. [Redacted] California apartment, a portion of the utilities for that apartment, some travel expenses, auto parts, and “professional projects.” Of this amount the Tax Commission’s auditor only allowed \$132. The remainder was disallowed as nondeductible personal expenses, or because the taxpayers did not establish that the expenditure was connected to Mr. [Redacted] employment with the [Redacted], California, School District. In response to the disallowance of these items, the taxpayers assert that they have “receipts, dated notations and records [for] each business travel event maintained separately in envelopes.” While not entirely clear, it appears that this statement is referring only to that portion of the \$6,435 deduction relating to travel expenses.

Within certain limitations, an employee is entitled to deduct ordinary and necessary business expenses incurred in connection with his employment. If these expenses are not reimbursed by the employer, the amount paid by the employee may be deducted as a miscellaneous itemized deduction, subject to the 2% limitation set out in Internal Revenue Code § 67. Personal, living and family expenses do not qualify as ordinary and necessary business

expenses and are not deductible except as otherwise expressly allowed in the Internal Revenue Code. I.R.C. § 262. Treas. Reg. § 1.262-1(c). For example, expenses for maintaining a household, including amounts paid for rent, utilities, and upkeep, are not deductible by an employee except to the extent allowed by Internal Revenue Code § 280A(c). See Treas. Reg. § 1.262-1(b)(3). Likewise, expenses incurred by an employee in commuting between his home and his place of employment are not deductible. Treas. Reg. § 1.162-2(e). Traveling expenses (including meals and lodging) incurred by an employee while away from home may be deductible so long as the travel was reasonable and necessary and directly attributable to the employee's job duties. I.R.C. § 162(a)(2). Treas. Reg. § 1.162-2(a). Commissioner v. Flowers, 326 U.S. 465, 470, 66 S.Ct. 250, 252 (1946). For purposes of Internal Revenue Code § 162(a)(2), which specifically authorizes a deduction for ordinary and necessary travel expenses incurred while away from home, the term "home" is generally considered to be the vicinity of the taxpayer's principal place of business or employment. Raush v. C.I.R., T.C. Memo 1998-245 (U.S. Tax Court 1998). See also Idaho Income Tax Administrative Rule 010.07, IDAPA 35.01.01.010.07 (2001) (defining the term "tax home"). In addition, the heightened substantiation requirements set out in Internal Revenue Code § 274(d) and the related Treasury Regulations apply to business related travel expenses. I.R.C. § 274(d)(1). Treas. Reg. §§ 1.274-5T(b)(2) and 1.274-5T(c).

With respect to the amounts listed by the taxpayers on line 20 of their 1997 Schedule A, it is clear that none of the rent and utilities associated with Mr. [Redacted] [Redacted], California, apartment are deductible. Treas. Reg. § 1.262-1(b)(3). Likewise, there has been no showing that any of the auto parts he purchased were directly attributable to his job as a teacher. Finally, the taxpayers have been unable or unwilling to adequately substantiate any of the

claimed travel expenditures as required by Internal Revenue Code § 274(d). Only those purchases that have been characterized by the taxpayers as “professional projects” can conceivably be considered deductible nonreimbursed employee expenses. A few of these expenses have been allowed. The remainder were disallowed because the taxpayers did not substantiate that the item purchased was an ordinary and necessary expense of Mr. [Redacted] occupation as a teacher. Thus far the taxpayers have not provided the Tax Commission with any additional evidence or explanation that indicates that any of the disallowed “professional project” expenses should be allowed as an ordinary and necessary business expense. As a result, no additional expenditures will be allowed as deductible nonreimbursed employee expenses.

h. 1999 Schedule A, Line 1: Medical and Dental Expenses.

The taxpayers claimed that they incurred \$4,300 of medical and dental expenses in 1999. This amount was listed on line 1 of the 1999 Schedule A. However, because of the 7.5% limitation set out in Internal Revenue Code § 213(a), the taxpayers only claimed a deduction of \$976 on that Schedule A.

The Tax Commission’s auditor carefully reviewed the medical and dental expenses claimed on line 1 of the taxpayers’ 1999 federal Schedule A. The auditor only allowed \$2,824 of the \$4,300 amount claimed. In addition, the auditor recomputed the Internal Revenue Code § 213(a) 7.5 % limitation. As a result of these two adjustments, none of the medical and dental expenses incurred by the taxpayers during 1999 were deductible. That is, the amount of qualifying medical and dental expenses did not exceed the 7.5% limitation.

An individual taxpayer is allowed a deduction for certain medical and dental expenses paid during the taxable year “to the extent that such expenses exceed 7.5 percent of adjusted gross income.” I.R.C. § 213(a). To qualify for this deduction, the expenses must be for medical

care of the taxpayer, his spouse, or a dependent of the taxpayer and not compensated or reimbursed by insurance or otherwise. Id. Tres. Reg. § 1.213-1(a)(3)(i). Internal Revenue Code § 213(d) defines the term “medical care” as the “amounts paid (A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting a structure or function of the body; (B) for transportation primarily for and essential to medical care referred to in subparagraph (A); or (C) for insurance . . . covering medical care referred to in subparagraphs (A) and (B).” I.R.C. § 213(d). “However, an expenditure which is merely beneficial to the general health of an individual, such as an expenditure for a vacation, is not an expenditure for medical care.” Tres. Reg. § 1.213-1(e)(ii).

In their November 9, 2001 letter the taxpayers claim that “if you had our records before you, you’d see each entry from the physician’s itemized billings. And \$3324 was actually allowable.” The Tax Commission has re-reviewed the medical and dental receipts and other source documents provided at the audit. From this re-review it does not appear that the taxpayers have adequately substantiated that they are entitled to claim any additional medical or dental expenses as itemized deductions for 1999. Several of the claimed expenditures were denied because the taxpayers did not provide evidence of actual payment of the medical care. See Tres. Reg. § 1.213-1(h) (setting out the requirements for substantiating a medical or dental expense.) Other expenditures were denied because they did not appear to qualify as “medical care.” In any event, even if the Tax Commission accepts the taxpayers’ claim that they have adequate records to substantiate medical and dental expenses of \$3,324, that amount is still below the 7.5% limitation set out in Internal Revenue Code § 213(a). Therefore, no additional deduction can be allowed.

i. 1999 Schedule A, Line 8: Other Taxes.

The taxpayers claimed a deduction of \$2,215 on line 8 of their 1999 Schedule A for state sales taxes they paid on the purchase of a motor home. This deduction was disallowed because there is no provision in the Internal Revenue Code allowing an itemized deduction for sales taxes. See Internal Revenue Code § 164(a) (listing taxes that are deductible). In their November 9, 2001, letter the taxpayers state that “[s]ales tax on our Class B motorhome is definitely deductible, as we have been counseled, with additional expenses when utilized for business purposes, for which it was originally purchased, involving writing assignments for travel and automotive magazines to which I regularly contribute as I practice my skill.” Apparently the taxpayers are asserting that the motor home was used in connection to a trade or business carried on by Mr. [Redacted]. However, there has been absolutely no showing that Mr. [Redacted] is engaged in any trade or business where the purchase of a motor home can be justified as an ordinary and necessary business expense. The taxpayers’ 1999 federal income tax return did not contain any form 2106 [Employee Business Expenses] or Schedule C [Profit or Loss from Business] that was related to any writing assignments engaged in by Mr. [Redacted] for any travel or automobile magazines. In short, the motor home appears to be an entirely personal expenditure and, therefore, none of the state sales taxes paid on that motor home are deductible.

j. 1999 Schedule A, Line 16: Gifts to Charity by Other than Cash or Check.

The taxpayers claimed a deduction of \$153 on line 16 of their 1999 Schedule A for property they claim to have donated to charity. It is not known what specific items are included as part of this \$153 deduction. However, in their November 9, 2001, letter the taxpayers assert that they have adequate receipts to back up this claimed deduction.

In reviewing the audit file, it appears that the auditor allowed as an itemized deduction \$100 worth of blankets donated on March 4, 1999, to The Cure for Cancer Foundation, and \$379 worth of food and clothing items donated throughout the year to Aid for Friends. Thus, the amount of donations of food and property that has been allowed in the audit far exceeds that \$153 claimed by the taxpayers on line 16 of their 1999 Schedule A. The taxpayers have not established that they are entitled to any additional deduction for property they donated in 1999. As a result, no additional amount will be allowed.

k. 1999 Schedule A, Line 20: Unreimbursed Employee Expenses.

The taxpayers reported unreimbursed employee expenses of \$3,797 on line 20 of their 1999 Schedule A. Of this amount the Tax Commission's auditor allowed \$2,187. The remainder was disallowed as nondeductible personal expenses, or because the taxpayers did not establish that the expenditure was connected to Mr. [Redacted] employment with the [Redacted], California, School District. In response to the disallowance of these items, the taxpayers assert that "[s]uch itemized information is collected with records and noted as 'Professional Education' costs for either me, my wife, or designated employees concerning training requirements for pre-school education programming within our city and state." It is not entirely clear how this statement relates to the nonreimbursed employee expenses reported on line 20 of the 1999 Schedule A. Any qualifying training or educational expenditures relating to the taxpayers daycare business should have been deducted on the Schedule C, not on the Schedule A. In any event, the Tax Commission has reviewed the list of disallowed employee expenses and is unable to identify any that should be allowed. For the most part these disallowed expenses related to food and other groceries, film processing, Christmas decorations, gifts, and travel. None of these items appear on their face to be directly attributable to Mr. [Redacted] job as a teacher. Absent

additional substantiation confirming that these disallowed items are, in fact, ordinary and necessary business expenses directly attributable to Mr. [Redacted] employment, no additional deduction can be allowed.

I. 1999 Schedule A, Line 27: Other Miscellaneous Deductions.

The final issue raised in the taxpayers' letter of November 9, 2001, relates to an \$11,933 deduction claimed on line 27 of the 1999 Schedule A. This deduction is made up of a \$10,000 payment made by the taxpayers on the motor home they purchased in 1999, and \$1,933 worth of auto parts and other automobile expenses. Not surprisingly, this claimed deduction was disallowed in its entirety as nondeductible personal expenses. The taxpayers argue that the \$11,933 deduction should be reinstated. According to the taxpayers, "[a]s noted earlier, the investment money was allotted for the exclusive purchase of equipment, an RV in this case, to be utilized with my writing assignment commitments around, generally, western states. Earnings will eventually restore the investment."

The Tax Commission is not persuaded. There has been no showing that the purchase of the motor home was anything other than a nondeductible personal expense. Additionally, there is no evidence that Mr. [Redacted] is currently engaged in any trade or business involving "writing assignments." But even if he was, the taxpayers have not maintained the necessary records to substantiate the business use of this property. See Tres. Reg. §§ 1.274-5.T(b)(6) and 1.274-5T(c) (setting out the substantiation requirements for "listed property," which includes recreational vehicles such as a motor home). Absent some proof that the motor home is used in a genuine trade, business or occupation conducted by Mr. or Mrs. [Redacted], and absent adequate substantiation as required under the Treasury Regulations, no deduction can be allowed.

3. 5% NEGLIGENCE PENALTY:

The final issue raised in this administrative protest relates to the 5% negligence penalty that was asserted on the income tax and use tax deficiencies. The taxpayers argue that the negligence penalty is not warranted in this case. The Tax Commission disagrees.

Idaho Code § 63-3046(a) provides that “[i]f any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five per cent (5%) of the total amount of the deficiency . . . shall be assessed, collected and paid in the same manner as if it were a deficiency.” The Tax Commission’s Administration and Enforcement Rules go on to provide several examples where imposition of the penalty is justified. See Tax Commission Administrative and Enforcement Rule 410.02, IDAPA 35.02.01.410.02 (2001). Among the examples provided in the Tax Commission’s administrative rules are where the taxpayer fails to maintain proper records and, as a result, files tax returns containing unsubstantiated claims or substantial errors. Also, the penalty is warranted where the taxpayer makes unsubstantiated or exaggerated claims of deductions or exemptions, or where unreported taxable income is a material amount as compared with the reported income. Id.

If ever there was a circumstance that cried out for the negligence penalty, this is it. These taxpayers have: (1) claimed a \$5,000 federal Medical Savings Account deduction on their 1998 federal income tax return to which they now admit they are not entitled; (2) claimed a \$1,100 Keogh, SEP/SIMPLE plan deduction on their 1998 federal income tax return to which they now admit they are not entitled; (3) claimed a \$672 Self-Employed Health Insurance deduction on their 1999 federal income tax return to which they now admit they are not entitled; (4) claimed a \$2,000 Idaho Medical Savings Account deduction on their 1997 and 1998 Idaho returns to which they now admit they were not entitled; (5) claimed various tax credits on their 1997, 1998, and

1999 Idaho income tax returns to which they now admit they are not entitled; (6) substantially and systematically understated the gross receipts they received in 1997, 1998, and 1999 from their [Redacted] daycare business; (7) maintained inadequate books and records relating to that [Redacted] daycare business to the extent that it is virtually impossible to tell exactly what expenditures they are claiming as deductible business expenses on the 1997, 1998, and 1999 federal Schedules C; (8) claimed numerous deductions which were either clearly erroneous on their face, or for which there was no adequate records made available to substantiate the claimed deduction; and (9) have seemingly ignored the findings contained in a prior audit conducted by the Idaho State Tax Commission that covered the taxpayers' 1994 through 1996 Idaho and federal income tax returns and which uncovered many of the same errors and discrepancies that are present in this audit. With reference to the Idaho income tax deficiency, the taxpayers' claim that the negligence penalty is not warranted under these circumstances is absurd.

The Tax Commission will, however, reverse the imposition of the negligence penalty on the Idaho use tax deficiency. There has been no showing that the taxpayers were negligent in failing to report and pay the Idaho use tax on the tangible personal property listed in Schedule D of the audit report.

WHEREFORE, the Notice of Deficiency Determination dated May 9, 2001, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following taxes, penalty and interest:

<u>YEAR</u>	<u>INCOME TAX</u>	<u>USE TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$4,865	\$ 80	\$243	\$1,478	\$ 6,666
1998	4,612	152	231	1,056	6,051
1999	4,412	46	221	662	<u>5,341</u>
TOTAL AMOUNT DUE					<u>\$18,058</u>

Interest is calculated through February 28, 2002, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED] Receipt No. [Redacted]
[Redacted] [REDACTED]

ADMINISTRATIVE ASSISTANT 1